

1946



File No. B.R.T.A.

Bijapur/4

Legal DEPARTMENT

A. BRANCH

P. 3 (e)
1946

Subject:—

Appeals to the Bombay Revenue
Tribunal from Bijapur District

File No.

B.R.T.A. Bijapur/46

Std. Sectt. Slip 24-B

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<i>1)</i>	<i>ON. 1621</i> <i>27-2-46</i>	<i>Possession of Watan land</i> <i>by Mrs Begumbi</i> <i>Filing of an appeal</i> <i>before the BRT.</i>	<i>1-2</i>
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The view taken by the Commissioner, Southern Division appears to be correct. The Mahomedan Law does not recognise adoption unless it is sought to be supported by custom which has to be proved by the party alleging its existence (see Muhammedan Law by F.B. Tyabji pages 266-268). In this case, however, the question of validity of Ladlesahab adoption seems to be irrelevant. Begumbi's rights are concluded by the award decree to which she was a party. That decree expressly declared Ladlesahab as the owner of the Watan lands (except S. No. 258) as well as of the right to perform Patilki service. While considering the effect of the decree on the claim of Aminsahab to officiate as Patil, the High Court has held, (in Second Appeal No. 662 of 1941), that Ladlesahab had legally acquired the Watan property by virtue of the award decree, that there was registration of his name as the representative Watandar and that he was therefore a Watandar within the meaning of section 4 of the Bombay Hereditary Offices Act, in preference to Begumbi. It is true that the High Court's decree related only to the right to perform Patilki service, but that was inevitable because the suit was filed not by Ladlesahab or his son, but by Begumbi, who, for some inexplicable reason, had been in possession of the Watan land despite the award decree. Had she not been in possession and had her suit been for possession of Watan lands as well as in respect of the right to perform service, the result would in all probability have been the same. If, therefore, as a result of the award decree she was deprived of her status as a representative Watandar and had no right in the Watan property, the alienation thereof by her in favour of Lalsahab would be of no effect, and the Collector was justified in ordering restoration of the Watan lands to Aminsahab under section 11 of the Bombay

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Hereditary Offices Act.

2. Since Ladlesheb was recognised by Government as Representative Watandar the succession of his son, the present opponent, to the watan cannot be challenged by Government. Consequently the question of resumption of the watan under the Resumption Rules does not arise.

3. In view of the circumstances stated above it seems unnecessary to instruct the Government Pleader to appear before the Tribunal. No written statement need be filed before the Tribunal. The Tribunal may decide the appeal on its own merits.

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Rur. 26/2/46
Remembrancer of Legal Affairs.

U.R. to R.D., No. 1621, dated the 27th February 1946.
* with case pp.

R. Submitted for signature

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